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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JEFF N. ROSE,

Petitioner,

vs.

ROBERT LeGRAND, *et al.*,

Respondent.

Case No. 3:13-cv-00267-MMD-WGC

**STIPULATION TO ALTER OR
AMEND JUDGMENT**

Respondents and petitioner Jeff N. Rose (“Rose”) stipulate to request this Court modify the deadline for commencement of any retrial until June 20, 2022. This stipulation is based upon the provisions of Rules 59(e) and Rule 60 of the Federal Rules of Civil Procedure, along with all other papers, documents, records, pleadings, and other materials on file herein.

POINTS AND AUTHORITIES

This Court denied Rose’s amended petition for a writ of habeas corpus. ECF No. 44. On September 24, 2019, the Ninth Circuit Court of Appeals affirmed in part, reversed in part, and remanded with instructions for this Court to conditionally grant a writ of habeas corpus. ECF No. 48. The Ninth Circuit subsequently granted Respondents’ motion to stay the issuance of the mandate pending the filing of a petition for writ of certiorari in the United States Supreme Court and indicated that the stay would continue until the Supreme Court resolved the petition. ECF No. 51.

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1 On April 9, 2020, the Ninth Circuit granted Rose's motion for release pursuant to Federal Rule
2 of Appellate Procedure 23(c) and remanded to this Court for the limited purpose of conducting a bond
3 hearing to determine bond and other appropriate conditions for release. ECF No. 54 at 4. This Court
4 conducted the bond hearing and ordered Rose's release in a minute order dated April 13, 2020.

5 Respondents later filed a petition for a writ of certiorari. After the United States Supreme Court
6 denied Respondents' petition and the Ninth Circuit issued the mandate, ECF No. 63, this Court entered
7 an order conditionally granting the writ of habeas corpus, ECF No. 65. This Court vacated Rose's
8 judgment of conviction and ordered him to be released from all forms of custody within 30 days, unless
9 the State filed an election to retry Rose within that 30-day period and thereafter commenced jury
10 selection within 120 days. *Id.* at 2. This Court noted that it would grant reasonable requests for
11 modification of the time periods in the judgment upon motion by either party. *Id.*

12 Respondents notified the Court that the State of Nevada intended to retry Rose on or about
13 February 23, 2021. ECF No. 67. Because negotiations were ongoing, and due to a trial backlog, the
14 parties subsequently stipulated that this court should modify its order to reflect that any retrial may
15 commence by December 10, 2021. ECF Nos. 69; 71, 73.

16 Rose remains released subject to the conditions outlined in this Court's minute order. Based
17 upon representations from the state prosecutor, the state parties have set the retrial for June 20, 2022,
18 based on a date requested by the defense. Out of an abundance of caution, Respondents and Petitioner
19 jointly stipulate that this Court modify its order granting the conditional writ of habeas corpus to reflect
20 that any retrial may commence by June 20, 2022, if a retrial is deemed necessary. Both Petitioner and
21 Respondents believe a continuance beyond the current time period imposed by this Court is appropriate

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1 and that this Court's judgment should be amended to reflect such continuance. The parties therefore
2 stipulate to amending the judgment to permit retrial of this matter by June 20, 2022.

3 RESPECTFULLY SUBMITTED this 7th day of December, 2021.

4 AARON D. FORD
5 Attorney General

6 By: /s/ Amelia L. Bizzaro
7 Amelia L. Bizzaro (Bar. No. 1045709)
8 Assistant Federal Public Defenders
9 RENE L. VALLADARES
10 Federal Public Defender

By: /s/ Charles L. Finlayson
CHARLES L. FINLAYSON (Bar. No. 13685)
Senior Deputy Attorney General

11 **IT IS SO ORDERED.**

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14 DISTRICT COURT JUDGE

15 Dated this 8th day of December, 2021.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 7th day of December, 2021, I served a copy of the foregoing **STIPULATION TO ALTER OR AMEND JUDGMENT**, by U.S. District Court CM/ECF electronic filing to:

Amelia L. Bizzaro
Assistant Federal Public Defenders
411 East Bonneville Avenue, Suite 250
Las Vegas, Nevada 89101

/s/ Perla M. Hernandez